

Senate Bill No. 324

CHAPTER 50

An act to amend Section 1107.5 of the Corporations Code, relating to corporations.

[Approved by Governor July 6, 2001. Filed with
Secretary of State July 9, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

SB 324, Ackerman. Corporations: mergers: tax liabilities.

Existing law governs the merger of corporations, and generally requires the surviving corporation to assume the liability of the disappearing corporation relative to taxes due under the Bank and Corporation Tax Law. Existing law also generally requires the Franchise Tax Board to provide a certificate of satisfaction to the Secretary of State in order for the merger to be filed by the Secretary of State. However, if the articles of incorporation of a domestic disappearing corporation were filed 60 days or less prior to the date of filing of the merger and the surviving corporation is a domestic corporation, the Secretary of State is required to file the merger without the certificate of satisfaction and is required to notify the Franchise Tax Board of the merger.

This bill would extend the operation of this provision to all cases in which the surviving corporation is a domestic corporation, or a foreign corporation qualified to do business in California.

The people of the State of California do enact as follows:

SECTION 1. Section 1107.5 of the Corporations Code is amended to read:

1107.5. (a) Upon merger pursuant to this chapter, a surviving corporation shall assume the liability of a domestic disappearing corporation (1) to prepare and file, or to cause to be prepared and filed, tax and information returns otherwise required of the domestic disappearing corporation under the Bank and Corporation Tax Law (Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code) and (2) to pay any tax liability determined to be due.

(b) Notwithstanding Sections 1103, 1108, and 1110 of this code and Section 23334 of the Revenue and Taxation Code, if the surviving corporation is a domestic corporation or a foreign corporation qualified to do business in California, the Secretary of State shall file the merger



without the certificate of satisfaction of the Franchise Tax Board and shall notify the Franchise Tax Board of the merger.

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